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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 09/510,174 | 02/22/2000 | Wataru Ito | 2091-0207P | 1568 |
| 7590 | 05/17/2004 | | EXAMINER | |
| Birch Stewart Kolasch & Birch LLP P O Box 747 Falls Church, VA 22040-0747 | | | ROGERS, SCOTT A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2626 | |
| | | | DATE MAILED: 05/17/2004 | 7 |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/510,174 | ITO, WATARU | |
| | Examiner | Art Unit | |
| | Scott A Rogers | 2626 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 February 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) 11-20 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 24 February 2004 have been fully considered but they are not persuasive.

Applicant argues that image editing is carried out according to a "sensation expression" such as "brighter" or "softer" and that, as defined in the specification, the "general sensation expression script" comprises "a script representing the content of the editing instruction and excluding an effect caused by a variance of image impression due to a sensation of a person generating an editing instruction for an image or a condition of viewing the image from which the editing instruction is being generated". Thus, applicant argues, in order to generate a general sensation expression script, conditions associated with the viewing of the image should be taken into account.

Applicant argues that there is no motivation to combine the Takahashi reference, cited by the Examiner to show a general sensation expression script, with the Higgins reference, and that Takahashi cannot produce a general sensation expression script based on the meaning defined by Applicant's specification. The Examiner respectfully disagrees and submits that the claim language does not limit the scope of the "general sensation expression script". Clearly image editing as done in Takahashi effects the "sensation expression" of the edited image and the language of a "general sensation expression script" reads on the processing-script in Takahashi for performing such editing. The claimed "general sensation expression script" is not limited in the claim by the definition Applicant refers to in the specification. Finally, considering that Higgins

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and Takahashi are from the same filed of art, and that Takahshi teaches an image editing system and method which allows images to be easily edited, even by users unfamiliar with image editing, there is motivation to combine the Higgins and Takahashi in order to perform image processing with a processing script which is stored and later used to edit images with ease and minimal user knowledge required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgins et al (US 5835627) in view of Takahashi (US 6202073).

Referring to claims 1, 3, 5, 6, 8, and 9:

Higgins et al disclose an image processing method, system, apparatus, and program with the functions of:

instructing editing according to a sensation expression for an image; and obtaining processed image data by carrying out image processing on image data representing the image, based on the instructed editing (see col. 4, line 50 to col. 5, line 67 and col. 8, line 63 to col. 9, line 50).

Higgins et al do not disclose generating a general sensation expression script, per se, based on editing instructions. However, Takahashi disclose the feature of

generating a script based on editing instructions (see summary in col. 6, lines 14-45, and col. 8, lines 28-34).

It would have been obvious to one of ordinary skill in the art to have modified Higgins et al in view of Takahashi, for generating a general sensation expression script based on the content of the editing instruction in order to provide a processing script describing editing to be performed on associated image data which can be stored and subsequently used to edit the associated image data with ease and minimal user interaction (see col. 6, lines 10-13, col. 9, lines 7-17, and col. 13, line 60 to col. 14, line 21).

Referring to claims 2, 4, 7, and 10:

Higgins et al disclose that the image processing is carried out on the image data based on an output condition used at the time of outputting the processed image data (see col. 8, line 63 to col. 9, line 24).

Allowable Subject Matter

New claims 11-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art searched and of record neither anticipates nor suggests in these claimed combinations, the newly introduced series of steps (or functions) which provide the basis for defining the claimed "general sensation expression script" as argued by Applicant in the remarks filed 24 February 2004.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott A Rogers whose telephone number is 703-305-4726. The examiner can normally be reached on Monday-Thursday 6:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly Williams can be reached on 305-4863.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-306-0377. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SCOTT ROGERS
PRIMARY EXAMINER

14 May 2004